

Amendments to Senate Bill No. 234  
1st Reading Copy

Requested by Senator Kim Gillan

For the House Business and Labor Committee

Prepared by Sue O'Connell  
February 13, 2009 (8:33am)

1. Title, page 1, line 5.  
**Following:** "SECTIONS"  
**Insert:** "33-1-102,"
2. Page 1, line 13.  
**Strike:** "dependent"  
**Following:** "child"  
**Insert:** "18 years of age or younger"
3. Page 1, line 14.  
**Strike:** "an individual"  
**Insert:** "a child"
4. Page 1, line 23.  
**Following:** "that are"  
**Insert:** "medically"  
**Following:** "develop"  
**Strike:** ", maintain,"
5. Page 1, line 24.  
**Strike:** "dependent"
6. Page 1, line 27.  
**Strike:** "by a dietitian registered in this state or"
7. Page 1, line 28.  
**Strike:** "nutritionist,"
8. Page 1, line 29 through page 2, line 3.  
**Strike:** "applied behavior" on page 1, line 29 through "behavior"  
on page 2, line 3  
**Insert:** "medically necessary interactive therapies derived from  
evidence-based research, including applied behavior  
analysis, which is also known as Lovaas therapy, discrete  
trial training, pivotal response training, intensive  
intervention programs, and early intensive behavioral  
intervention"
9. Page 2, line 4.  
**Following:** "who" on line 4

**Strike:** "has been"

**Insert:** "is licensed by the behavior analyst certification board  
or is"

10. Page 2, line 5 through line 6.

**Strike:** "qualified" on line 5 through "analysis" on line 6

**Insert:** "family support specialist with an autism endorsement"

11. Page 2, line 9.

**Strike:** "dependent"

12. Page 2, line 15 through line 18.

**Following:** "(6)"

**Strike:** "Upon request" on line 15 through "status." on line 18

**Following:** "may request"

**Insert:** "that the treating physician provide"

13. Page 2, line 20.

**Strike:** "frequency" through "updated."

**Insert:** "reasons the treatment is medically necessary. The  
treatment plan must be based on evidence-based screening  
criteria. The insurer may ask that the treatment plan be  
updated every 6 months."

14. Page 2.

**Following:** line 20

**Insert:** "(7) As used in this section, "medically necessary" means  
any care, treatment, intervention, service, or item that is  
prescribed, provided, or ordered by a physician or  
psychologist licensed in this state and that will or is  
reasonably expected to:

(a) prevent the onset of an illness, condition, injury, or  
disability;

(b) reduce or improve the physical, mental, or developmental  
effects of an illness, condition, injury, or disability; or

(c) assist in achieving maximum functional capacity in  
performing daily activities, taking into account both the  
functional capacity of the recipient and the functional  
capacities that are appropriate for a child of the same age."

**Renumber:** subsequent subsections

15. Page 2.

**Following:** line 26

**Insert:** "Section 2. Section 33-1-102, MCA, is amended to read:

"33-1-102. Compliance required -- exceptions -- health  
service corporations -- health maintenance organizations --  
governmental insurance programs -- service contracts. (1) A  
person may not transact a business of insurance in Montana or a  
business relative to a subject resident, located, or to be  
performed in Montana without complying with the applicable

provisions of this code.

(2) The provisions of this code do not apply with respect to:

(a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;

(b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and

(c) fraternal benefit societies, except as stated in chapter 7.

(3) This code applies to health service corporations as prescribed in 33-30-102. The existence of the corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.

(4) This code does not apply to health maintenance organizations or to managed care community networks, as defined in 53-6-702, to the extent that the existence and operations of those organizations are governed by chapter 31 or to the extent that the existence and operations of those networks are governed by Title 53, chapter 6, part 7. The department of public health and human services is responsible to protect the interests of consumers by providing complaint, appeal, and grievance procedures relating to managed care community networks and health maintenance organizations under contract to provide services under Title 53, chapter 6.

(5) This code does not apply to workers' compensation insurance programs provided for in Title 39, chapter 71, parts 21 and 23, and related sections.

(6) The department of public health and human services may limit the amount, scope, and duration of services for programs established under Title 53 that are provided under contract by entities subject to this title. The department of public health and human services may establish more restrictive eligibility requirements and fewer services than may be required by this title.

(7) This Except as otherwise provided in Title 33, chapter 22, this code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8.

(8) This code does not apply to insurance funded through the state self-insurance reserve fund provided for in 2-9-202.

(9) (a) This Except as otherwise provided in Title 33, chapter 22, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state in which the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan.

(b) This Except as otherwise provided in Title 33, chapter 22, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state in which the political subdivision

provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program.

(10) (a) This code does not apply to the marketing of, sale of, offering for sale of, issuance of, making of, proposal to make, and administration of a service contract.

(b) A "service contract" means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement, or maintenance of property or to indemnify for the repair, replacement, or maintenance of property if an operational or structural failure is due to a defect in materials or manufacturing or to normal wear and tear, with or without an additional provision for incidental payment or indemnity under limited circumstances, including but not limited to towing, rental, and emergency road service. A service contract may provide for the repair, replacement, or maintenance of property for damage resulting from power surges or accidental damage from handling. A service contract does not include motor club service as defined in 61-12-301.

(11) (a) Subject to 33-18-201 and 33-18-242, this code does not apply to insurance for ambulance services sold by a county, city, or town or to insurance sold by a third party if the county, city, or town is liable for the financial risk under the contract with the third party as provided in 7-34-103.

(b) If the financial risk for ambulance service insurance is with an entity other than the county, city, or town, the entity is subject to the provisions of this code."

{ Internal References to 33-1-102:

30-14-1301x 30-14-1302x 33-35-103x }"

**Renumber:** subsequent sections

16. Page 4, line 9.

**Strike:** "and"

17. Page 4, line 10.

**Following:** "and"

**Insert:** "; and"

18. Page 4, line 11.

**Following:** "autism"

**Insert:** "(g) autism"

**Following:** "the first ".""

**Insert:** "(7) Coverage for a child with autism who is 18 years of age or younger must comply with [section 1(3) through (5)] if the child is diagnosed with:

(a) autistic disorder;

(b) Asperger's disorder; or

(c) pervasive developmental disorder not otherwise specified."

19. Page 5, line 22.

**Strike:** "and"

20. Page 5, line 23.

**Following:** "and"

**Insert:** "; and"

21. Page 5, line 24.

**Following:** "autism"

**Insert:** "(g) autism"

22. Page 5, line 25.

**Insert:** "(7) Coverage for a child with autism who is 18 years of age or younger must comply with [section 1(3) through (5)] if the child is diagnosed with:

(a) autistic disorder;

(b) Asperger's disorder; or

(c) pervasive developmental disorder not otherwise specified."

23. Page 8, line 9.

**Insert:** "NEW SECTION. Section 7. {standard} Saving clause.

[This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

**Renumber:** subsequent section

- END -